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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
Central DIVISION

**FILED**  
U. S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

APR 07 2020

JAMES W. McCORMACK, CLERK  
By: [Signature] DEP CLERK

Valary W Nellum  
90 Greystone Blvd  
Cabot, Ar 72023  
(Name of plaintiff or plaintiffs)

v.

CIVIL ACTION NO. 4:20-cv-385-LPR  
(case number to be supplied by the assignment clerk)

Ark Children's Hosp.  
1 Childrens Way  
Little Rock, Ar 72202  
(Name of defendant or defendants)

This case assigned to District Judge Rudofsky  
and to Magistrate Judge Kearney

**COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the Court by 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff, Valary W Nellum, is a  
(name of plaintiff)  
citizen of the United States and resides at 90 Greystone Blvd,  
(street address)  
Cabot, Lemoke, Ar, 72023  
(city) (county) (state) (ZIP)  
521-960-1473  
(telephone)

3. Defendant, Ark Children's Hospital, lives at, or its  
(name of defendant)  
business is located at 1 Childrens Way, Little Rock  
(street address) (city)  
Dulask, Ar, 72202  
(county) (state) (ZIP)

4. Plaintiff sought employment from the defendant or was employed by the

9. The circumstances under which the defendant discriminated against plaintiff were

(3)

as follows:

Initial complaint of discrimination  
~~and unfair promotional practice~~, and  
the toxic environment was reported  
April 2016 - April 2018, & October 2018  
w/in Arkansas Children's outside  
w/ EEOC 4/2019  
Please see attach

10. The acts set forth in paragraph 9 of this complaint:

- (a) ☒ are still being committed by defendant.  
 (b) \_\_\_\_\_ are no longer being committed by defendant.  
 (c) \_\_\_\_\_ may still be being committed by defendant.

11. Plaintiff attaches to this complaint a copy of the charges filed with the Equal Employment Opportunity Commission which charges are submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, plaintiff prays that the Court grant the following relief to the plaintiff:

- (a) \_\_\_\_\_ Defendant be directed to employ plaintiff, and  
 (b) \_\_\_\_\_ Defendant be directed to re-employ plaintiff, and  
 (c) ☒ Defendant be directed to promote plaintiff, and  
 (d) \_\_\_\_\_ Defendant be directed to \_\_\_\_\_

and that the Court grant such relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

  
 SIGNATURE OF PLAINTIFF

*Margie*  
Valary Nellum  
90 Greystone Blvd  
Cabot, Arkansas 72023  
Incident: 190403-000166

Arkansas Children's Hospital  
1 Children's Way  
Little Rock, Arkansas 72202

Approximate employees:

My complaint will illustrate an unfair promotions process, toxic work environment, and their retaliatory practices. These practices are more prominent in African American employees.

Last Date: 04/03/2019, 03/15/2019, & 10/08/2018

Recent meeting with Human Resource 03/15/2019, 03/22/2019 and 03/29/2019

I have twenty-two years of experience in Healthcare Billing, Collections and thirty years in Accounting/Finance.

Prior to my employment with ACH, my credential was as follows; I trained employees for Baptist Hospital for seven years. They have one of the largest Inpatient Facilities, in Arkansas. While training I remain a top collector. ( See Attached ) I have eight years experience as an Store Operation Manager with Captain D's two of which I was responsible for training entry level managers and assistant managers, for various locations. I have three years experience as a Business Owner in Advance Medical Billing LLC and member with the American Association of Professional Coder from 2015-2017. I have my Associate of Applied Science of Business Administration as well as my Certificate of Proficiency in Accounting and Certified Pharmacy Tech. I'm currently pursuing my Bachelor in Healthcare Manager.

In October 2012 I accepted my current position as an Analyst I with Arkansas Children's Hospital, Samantha Suggs was my hiring manager.

Attach are the requirements for an Analyst II and you will find I meet all criteria. Also attached are my last 4 evaluations.

From 2013-2018 I've given innovated idea that has brought results to the Outpatient Medicaid team.

In 2016 my lasted innovated ideas was implemented. These ideas resulted in collection improvement, account receivable reduction, stress reduction for my team and a Director position for Samantha Suggs (See attach) October 2016, my evaluation was completed and I was denied an Analyst II position. ( See Attach )



5

From 2014-2018, I've applied for the following positions within my department Customer Service, AR Control, Commercial Biller, Analyst II & III, Director, and a Manager's position. I was declined, rejected or never interviewed for the positions based off education, my work experience, job performance as well as my evaluation. I met the job requirements for each of these positions and I was denied this opportunity.

Individuals with less qualifications and performance were giving these opportunities.

The concerns regarding my complaints have been brought to the attention of the following leaders.

Samantha Suggs-2013

Sheryl Phillips- Manager-2014-2015

Ronnie Spear-Director- 2016

Human Resource- (-----) 2016

Emailed-President/Ceo-Marcy D -2014

Director- Samantha Suggs 2017-2018

VP of Finance- Carol Hudes- 2018

President of Finance- Gina Wingfield -2018

Corporate Compliance President- Aaron Parks-2018

New VP in Finance Lekita Brown- 2018-2019

Director of Employees Relation- Chanta Wells- 2018- 2019

Emailed-Chief Finance Officer- Chanda Chacon- 2019

After bringing these concerns of unfair practices to my leaders my work environment has become more toxic and retaliatory. (See Attach)

I regret the need to file a formal complaint, but I know nothing else to do. I've brought these unfair practices to my leaders and to know avail the problem has not been resolved

My intent is to be upgraded to an Analyst III. And if a position within ACH become available that I am well qualified to perform, I'm would like an opportunity with no retaliation. And made whole.

Thank you and I look forward to a meeting with you

  
Valary Nellum

EEOC Form 5 (11/09)

**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA☒ EEOC**493-2019-01101**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

**Mrs. Valary W. Nellum**

Home Phone (Incl. Area Code)

**(501) 960-1473**

Date of Birth

Street Address

City, State and ZIP Code

**90 Greystone Blvd, Cabot, AR 72023**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**ARKANSAS CHILDREN'S HOSPITAL**

No Employees, Members

**Unknown**

Phone No. (Include Area Code)

**(501) 364-1100**

Street Address

City, State and ZIP Code

**1 Children's Way, Little Rock, AR 72202**

Name

No Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ GENETIC INFORMATION  
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**10-08-2018****10-08-2018**☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I was hired in October 2012 as an Analyst I. Throughout my employment, I have repeatedly requested a promotion to the position of Analyst II and Analyst III. I have not been given a promotion. On or about October 8, 2018, I was given a performance evaluation. The rating was lower than prior evaluations. Because of the rating, my raise was less than it was in prior years. On or about March 8, 2019, I applied for the position of Cost Analyst. I was not offered the position. On or about March 13, 2019, I applied for the position of Financial Decision Support. I was not offered the position. On or about March 13, 2019, I applied for the position of Cost Accounting. I was not offered the position. On March 14, 2019, I was given a coaching. On March 21, 2019, I applied for the position of Legal Contract. I was not offered the position. On April 5, 2019, I was given a written warning.

I believe I have not been promoted to the position of Analyst II or Analyst III; I was given a lower performance evaluation resulting in a lower raise; I was not offered the positions of Cost Analyst, Financial Decision Support, Cost Accounting, or Legal Contract; and I was given a coaching and a written warning because of my race, African American in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

4-24-19

Date

J W Nellum

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)



## CHARGE OF DISCRIMINATION

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Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

AMENDED

493-2019-01101

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mrs. Valary W. Nellum

Home Phone (Incl. Area Code)

(501) 960-1473

Date of Birth

Street Address

City, State and ZIP Code

90 Greystone Blvd, Cabot, AR 72023

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Name

ARKANSAS CHILDREN'S HOSPITAL

No. Employees, Members

Unknown

Phone No. (Include Area Code)

(501) 364-1100

Street Address

City, State and ZIP Code

1 Children's Way, Little Rock, AR 72202

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN

☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ GENETIC INFORMATION
☒ OTHER (Specify)

Hostile Work Environment (Toxic)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

10-08-2018

10-08-2018

☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

I was hired in October 2012, as an Analyst I. Throughout my employment, I have repeatedly requested a promotion to the position of Analyst II and Analyst III. I have not been given a promotion. On or about October 8, 2018, I was given a performance evaluation. The rating was lower than prior evaluations. Because of the rating, my raise was less than it was in prior years. In 2018, I told the Vice President of Revenue Finance and the Human Resources Director I thought I was not being promoted or offered other jobs because the decision makers are singling me out because they are racist. On or about March 8, 2019, I applied for the position of Cost Analyst. I was not offered the position. On or about March 13, 2019, I applied for the position of Financial Decision Support. I was not offered the position. On or about March 13, 2019, I applied for the position of Cost Accounting. I was not offered the position. On March 14, 2019, I was given a coaching. On March 21, 2019, I applied for the position of Legal Contract. I was not offered the position. On April 5, 2019, I was given a written warning.

I believe I have not been promoted to the position of Analyst II or Analyst III; I was given a lower performance evaluation resulting in a lower raise; I was not offered the positions of Cost Analyst, Financial Decision Support, Cost Accounting, or Legal Contract; and I was given a coaching and a written warning because of my race, African American, and in retaliation for reporting discrimination in the workplace in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

4/25/19

Date

D W Nellum

Charging Party Signature

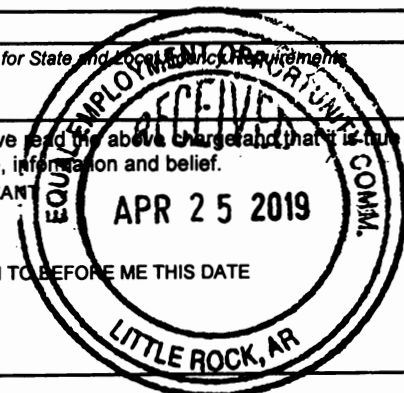
NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

APR 25 2019

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)



EEOC Form 5 (11/09)

8

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☐ FEPA  
☒ EEOC
**AMENDED****493-2019-01101**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

**Mrs. Valary W. Nellum**

Home Phone (Incl. Area Code)

**(501) 960-1473**

Date of Birth

Street Address

City, State and ZIP Code

**90 Greystone Blvd, Cabot, AR 72023**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**ARKANSAS CHILDREN'S HOSPITAL**

No. Employees, Members

**Unknown**

Phone No. (Include Area Code)

**(501) 364-1100**

Street Address

City, State and ZIP Code

**1 Children's Way, Little Rock, AR 72202**

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ GENETIC INFORMATION  
☐ OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**04-19-2016****04-05-2019****10-2014****4-5-2019**☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

*Earliest date actual  
2014*

I was hired in October 2012, as an Analyst I. Throughout my employment; I have repeatedly requested a promotion to the positions of Analyst II and Analyst III. I have not been given a promotion. During the period of 2015 - 2018, I applied for the following positions within my department — Customer Service Analyst I, Accounts Receivable Control Analyst I, Commercial Insurance Analyst I, Inpatient Medicaid Analyst I, Manager and Director of Patient Finance. With the exception of two of the positions, I was declined or never interviewed for the positions. The reasons provided to me were that I was not considered due to a lack of productivity or due to feedback that was provided to the hiring manager stating I “was not ready” for the position. I met the job requirements for each of these positions and was denied each of these opportunities. In numerous cases, employees who were less productive were hired for the positions.

In October 2017, I expressed my concerns about not being promoted with Samantha Suggs, who was previously my manager but at that time was the Interim Director. At the time, I had been given consistently high performance ratings of *Role Model* and *Strong Performer*. She stated that she would set up some time to

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I declare under penalty of perjury that the above is true and correct.

NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

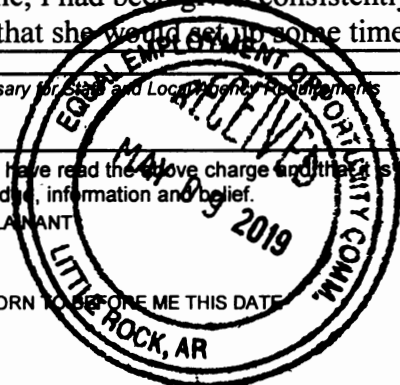
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

**5-9-19**

Date

**Valary W. Nellum**

Charging Party Signature



EEOC Form 5 (11/09)

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☒ EEOC
**AMENDED****493-2019-01101**

and EEOC

State or local Agency, if any

discuss it with me. However, I did not hear back from her with a resolution of my concerns.

In January 2018, I escalated my concerns to the following executive leadership (CFO Gena Wingfield and VP of Finance whom at the time was Carol Hudgens) in an attempt to get assistance with addressing my concerns. In April 2018, the newly promoted VP of Finance Lekita Brown contacted me to discuss the concerns that I had raised three months prior. She informed me and another minority co-worker (Kimberly Brown) that people were saying that she was placed in her position because she was black. We talked about our issues and concerns. I was not being promoted or offered other positions because the decision makers were singling me out because of my race however; my concerns were still not addressed.

After becoming aware about an open Patient Account Manager position, I emailed the hiring manager Samantha Suggs on 4/30/2018 to inquire about whether the job was posted. She responded on May 10th with a screenshot of the requisition. However, the position was still not available online for me to apply. On May 22nd, I asked VP of Finance Lekita Brown about the position at which time she asked me, "You're on FML, right?" She told me that she had taken the position down but was going to repost it for me to apply. I later applied and was interviewed for the position. However, I did not understand why I was questioned about my approved intermittent FML in regards to an upcoming position. The position was filled six months later. My concern is that although I was working at the time, my intermittent FML leave status may have been unfairly used to disqualify me for the position.

On or about October 8, 2018, I was given another performance evaluation. The ratings were lower than my prior evaluations. As a result, my pay increase was less than it had been in prior years. In March 2019, Lekita Brown in a meeting with Chanta Wells advised me that I would not be unable to receive my bonus if I didn't signed my 2018 evaluation. Although I did not agree with the lower rating and much of its content, I signed it under duress, as I did not want to forfeit my 2019 bonus for which I worked so hard to earn.

In October 2018, I told the Vice President of Revenue Finance, the Human Resources Director and the Director of Compliance that I thought I was not being promoted or offered other positions because the decision makers were singling me out because of my race. I was advised by the Director of Compliance that she would review the issue and would see it all the way through. During my meeting with Lekita Brown I provided her with additional written details as she had requested, after which she stated she told the CFO, Gena Wingfield "she thought we wanted her to save us." Unfortunately, this did not create the confidence I would have preferred to have in her willingness to assist with my concerns. However, my concerns were still not addressed

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.


I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

5-19-19 

Date

Charging Party Signature

EEOC Form 5 (11/09)

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and EEOC

State or local Agency, if any

The same month, the VP of Finance, Lekita Brown, told me she had posted a position that I should apply for — Insurance Specialist II. I applied for the position. However, I later determined that I would have to take a cut in pay since it was a lower grade position. When I discussed this with Lekita Brown she advised me that sometimes I would have to take a cut in pay in order to move forward. Due to the lower grade of the position and the potential pay cut, I withdrew my application as my concerns were directly related to being promoted rather than accepting a lesser position. Based on her actions it is my belief that her actions as it relates to my concerns are an attempt to cover up rather than address the ongoing discriminatory practices within the company.

In November 2018 and in January 2019, I followed up with Human Resources regarding my initial concerns. HR arranged a meeting with me on 1/16/2019. Unfortunately, I had to reschedule due to me taking an intermittent FML absence as a result of my mother's terminal illness. When I returned in February, Human Resources rescheduled the meeting for March 15, 2019. On March 14th, one (1) day prior to my scheduled meeting with Human Resources, I was given a verbal coaching by my manager. I believe this coaching was in retaliation for me scheduling a meeting with HR as well as for previously expressing my concerns regarding discriminatory practices with the VP of Revenue Finance, the HR Director and the Director of Compliance. I also believe the verbal coaching was intended to set the stage for management to provide me with future unwarranted corrective actions. I subsequently received a written warning on April 5, 2019 for "not following instructions". I believe the written warning was also in retaliation for me expressing additional concerns to Human Resources regarding the statement Lekita Brown made to Gena Wingfield in our previous meeting, and escalating these concerns beyond my Manager and Revenue Vice President.

During the month of March 2019, I applied for three different positions — Cost Analyst, Financial Decision Support and Legal Contracts. I was not hired for either of the positions nor was I granted an interview for consideration of the positions, although Human Resources had forwarded my application to them for consideration.

I have not been promoted to the positions of Analyst II or Analyst III. I was given a lower performance evaluation in 2018 resulting in a lower pay increase. I was not offered nor interviewed for numerous positions for which I qualified during the period of 2015 - 2019. I was required to sign a performance evaluation with which I did not agree in order to receive an earned bonus. I was given a coaching and a written warning after expressing my concerns regarding discriminatory practices to Human Resources, the VP of Finance as well as other levels of managements. I believe these incidents occurred because of my race (African American) and in retaliation for reporting discrimination in the workplace in violation of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

5/9/19  
Date

JW Nelson  
Charging Party Signature

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION



## DISMISSAL AND NOTICE OF RIGHTS

To: **Valary W. Nellum**  
**90 Greystone Blvd**  
**Cabot, AR 72023**

From: **Little Rock Area Office**  
**820 Louisiana**  
**Suite 200**  
**Little Rock, AR 72201**

☐

On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**493-2019-01101**

**Margie Myers,**  
**Investigator**

**(501) 324-6214**

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Enclosures(s)

**William A. Cash, Jr.,**  
**Area Office Director**

**JAN 08 2020**

(Date Mailed)

cc:

**Neemah Esmaeilpour**  
**Assistant General Counsel**  
**ARKANSAS CHILDREN'S HOSPITAL**  
**1 Children's Way Slot 656**  
**Little Rock, AR 72202**